

style, which, independently of a clear and distinct enunciation, a melodious voice and engaging manner, imparted even to his extemporaneous arguments the charms of polished composition.

He was never ostensibly a severe student, but his learning in his profession was profound and necessarily the fruit of much study; acquired probably not by regular reading of elementary books, but whenever in his practice, which was extensive, or by other means, his curiosity became excited on any topic, he pursued it until he had mastered it in all its ramifications,—a habit of mind, which he was accustomed to apply to other subjects, historical, literary, or scientific, to which his attention might be attracted, and especially to that exalted science to which further allusion may be made in the sequel. His familiar acquaintances, however, I think, must be satisfied, that he was greatly favored in the ease and rapidity with which he acquired knowledge, and will concur in the remark made by one of the most distinguished members of the profession, soon after my first introduction to him, that “he could learn more in the same time than any man he had ever known”.

He attained a high degree of knowledge in every branch of the law; whether in the doctrine of real estate transmitted by Coke,²⁸ and contemporaries from the days of the Tudors, and before; the modifications introduced by commerce and the higher civilization of more recent times; the supplemental code of equity jurisprudence, invented to eke out the scanty justice of rude Barons and ignorant feudatories, and to apply rules of morality to the affairs of men; or in the criminal law, and the subjects of jurisdiction peculiar to the courts of the United States. And in the altercations of parties through their counsel in writing, which we style pleadings, (designed, by a severe logic, to present their points of disagreement for the decision of courts and juries,) in all these departments, his productions were models, which might safely be transferred to books of precedents for the instruction of his juniors; an adeptness, ascribable, not more to the acuteness of his understanding, than to his accomplishments as an English linguist and critic, causing a false inference, or ungrammatical phrase, to elicit his disapprobation like a false note on the ear of a musician.

These resources were ever at the command of his brethren, and of the court; before which some of his highest efforts were made, in causes in which arguments had been invited, or in which the subject of contest attracted his thoughts from its connexion with his favorite studies, and were delivered to no other auditors save those whose presence was required by duty. On an occasion of this kind, in a case of indictment for blasphemy, the question has been raised whether the Christian religion was a part of the common law, with a suggestion that, if it was, it might be altered by statute, Mr. BADGER volunteered an argument for the cause of religion and sound morality. It so happened, that as he opened his case, a venerable citizen of the State, of great intelligence, entered the court room to speak a word to the reporter, expecting immediately to retire. He was, however, so fascinated with the manner of the speaker, the splendor of his diction, the copiousness of his theological and legal learning, the force and clearness of his arguments and the precision with which they were stated, that he sat down and heard him to the close, observing, as he withdrew, “what folly ever to have made him a Judge; he ought to have been a Bishop”.

Literature, whose office it is to preserve the results of learning, knowledge and fancy, has made so little progress among us that there has not been much effort to save from oblivion the discussions at the bar or in the deliberative assemblies of the State, the chief theatres of public intellectual exertion besides the pulpit, and none at all as to those forensic displays at *nisi prius*,²⁹ which, dealing with the